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## **PART II - CODE**

### **Chapter 21 - OFFENSES AND MISCELLANEOUS PROVISIONS**

#### **ARTICLE III. NOISE**

#### **ARTICLE III. NOISE<sup>1</sup>**

Everyone is going to send their suggestions to M. Uresti who will put them together, then send to legal team to review and then the committee can discuss those items that are legal.

#### **DIVISION 1. GENERALLY**

##### **Sec. 21-51. Definitions and standards.**

[As used in this division the following words and terms shall have the meanings respectively ascribed:]

*A-weighted sound level* shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

**Amplified sound- definition** – Task Force wants a definition on this. Ordinance should be for **amplified sound**.

*Daytime/evening* shall mean the hours between six o'clock a.m. and ten o'clock p.m., Sunday through Thursday and six o'clock a.m. and eleven o'clock p.m. Friday and Saturday.

1. ~~*Daytime/evening hours*~~ shall mean the hours between 7:00 a.m. and ~~ten o'clock~~ 10:00 p.m., Sunday through Thursday and ~~six o'clock~~ 7:00 a.m. and ~~eleven o'clock~~ 11:00 p.m. Friday and Saturday. Easier to Read. Changed from 6 a.m. to 7 a.m.- In reviewing a number of noise ordinances 7:00 a.m. time is used the most. - 2
2. Definition regarding decibel levels in residential areas needs clarification to mean only those decibel levels are allowed during the allowed weekend and weekday hours under 21-51 when related to commercial businesses operating adjacent to single-family areas. After the allowed hours, ***I propose that any music or amplification that is audible after the allowed hours is prohibited. Or some variation similar to the Riverwalk noise overlay rules. – 2 – when adjacent to residentially used property***

Requesting to take numbers into account in residential/commercial numbers.

*Director* shall mean Director of Housing and Neighborhood Services Department. – SAPD currently enforces

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<sup>1</sup>Editor's note(s)—Ord. No. 94706, § 1Editor's note(s)—(Attach. A), adopted September 13, 2001, repealed and reenacted art. III to read as herein set out. Formerly, art. III pertained to similar subject matter and derived from the Code of 1950, Ch. 40Editor's note(s)—; Ord. No. 18222, adopted August 28, 1952; the Code of 1959, § 25-3Editor's note(s)—; Ord. No. 62550, adopted March 20, 1986; Ord. No. 70842, §§ 3, 4, adopted December 21, 1989; Ord. No. 75012, adopted January 9, 1992; Ord. No. 83939, § 1Editor's note(s)—(a)—(c), adopted April 11, 1996.

State law reference(s)—Prevention of noises by automobiles, Vernon's Ann. Civ. St. art. 6701d, §§ 133State law reference(s)—, 134State law reference(s)—.

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1. *Director* shall mean ~~Director of Housing and Neighborhood Services Department~~. appointee of the city manager responsible for noise ordinance enforcement. – 2, shall always include a Certified Peace Officer enforcing the ordinance. -Legal may need to add wording specifying who enforces.
2. San Antonio Police Department shall enforce this ordinance and Chief of Police.
3. Is this the correct department in DSD- there is no one on this committee from that Department. Should we have a separate department for noise issues? - 1
4. Or some other name agreeable, creating a division within DSD to own. Would need to consider Peace Officer verbiage for enforcement purposes, or partnership with SAPD. – 2, believes that SAPD is not staffed to handle this.

*Impulsive sound* shall mean sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

*Leq* shall mean an average measure of continuous noise that has the equivalent acoustic energy of the fluctuating signal over the same time period. The time period of monitoring will be continuous over any two (2) hours and will use the A-weighting network reported in decibel units.

1. ~~*Leq* shall mean an average measure of continuous noise that has the equivalent acoustic energy of the fluctuating signal over the same time period. The time period of monitoring will be continuous over any two (2) hours and will use the A-weighting network reported in decibel units.~~ – we need to follow a national standard, this defines the manner of use of readings. – research needed.

*Nighttime* shall mean the hours between ten o'clock p.m. and six o'clock a.m., Sunday through Thursday and eleven o'clock p.m. and six o'clock a.m. Friday and Saturday.

1. *Nighttime hours (-7dB)* shall mean the hours between 10:00 p.m. and 7:00 am, Sunday through Thursday and 11:00 p.m. and 7:00 a.m. Friday and Saturday.

*Business community keep as is.*

*Permission to operate at a later time.*

*Proposal for 10pm cut off with possibility of exceptions*

*Proposal for grandfather clause if time changes to 10pm for those already at 11pm. Legal Research*

*System that rewards good actors and punish bad actors.*

*Permits system with conditions*

*Council officer permission letter to extend hours for special permissions. Legal and Development Services review*

2. Definition of Daytime/evening/nighttime should have a subsidiary definition for commercial businesses operating live or amplified music outdoors to cease such noise at 10 pm on Weekends and 9 pm on weekdays when abutting zoning districts occupied by predominantly single-family residences. -
3. ~~*Nighttime* shall mean the hours between ten o'clock p.m. and six o'clock a.m., Sunday through Thursday and eleven o'clock p.m. and six o'clock a.m. Friday and Saturday.~~
  - a. Residential property (Houston definition) shall mean any real property developed and used for human habitation that contains living facilities, including provisions for sleeping, eating, cooking and sanitation unless such premises are actually used primarily for purposes other than human habitation. (See section 21-52 why change should occur) - *research by legal*

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- b. Nonresidential property shall mean any real property that is not included in the definition of residential property as defined in this section. Without limitations, the term includes properties that have been developed other than as residential properties, properties that are under developed and properties that are devoted to public purposes, such as public streets and parks.

(See section 21-52 why change should occur) - *research by legal*

3. Definition regarding decibel levels in residential areas needs clarification to mean only those decibel levels are allowed during the allowed weekend and weekday hours under 21-51 when related to commercial businesses operating adjacent to single-family areas. After the allowed hours, ***I propose that any music or amplification that is audible after the allowed hours is prohibited. Or some variation similar to the Riverwalk noise overlay rules. – research by legal***

***Adjusting decibel limits residential. 65dbs***

National standard. Legal review for updates

Skipping topic until legal review

*Noise nuisance* shall mean any loud, irritating, vexing or disturbing sound originating from a nearby property under separate ownership which causes injury, discomfort, or distress of a person of reasonable nervous sensibilities, or any sound that exceeds the maximum permitted sound levels specified in subsections 21-52(a) (6)(b), (9)–(12), and 21-60(b).

1. Would suggest clarification re ‘nearby property.’ Immediately adjoining, nearest residential, or use a distance in feet.
2. ~~specified in subsections 21-52(a) (6)(b), (9)–(12)), and 21-60(b).~~
3. *Noise nuisance* shall mean any loud, irritating, vexing or disturbing sound originating from a ~~nearby~~ property under separate ownership which causes injury, discomfort, or distress of a person of ~~reasonable nervous sensibilities~~ (Remove the word nearby- how is that defined. Some noise makers are more than 100 ft or more away. What is reasonable nervous sensibilities? – persons with PTSD/ other health conditions such as post stroke that may react to loud noises-- eliminate that wording or any sound that exceeds the maximum permitted sound levels specified in subsections 21-52(a) (6)(b), (9)–(12), and 21-60(b). Noise Nuisance shall mean any sound that exceeds the maximum permitted sound levels specified in section- or put sound levels defined here and unreasonably disturbs, if any music or noise can be heard beyond your property line or the physical space of your property you are violating noise regulations.
- 4.

*Sound level* shall mean the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971). If the frequency weighting employed is not indicated, the A-weighting shall apply.

1. Use of ‘Plainly Audible’ was discounted by a business representative at first meeting, but would appreciate City Attorney verification that this standard is not appropriate. Supplied literature would strongly suggest otherwise.

*Sound level meter* shall mean an instrument which includes a microphone, amplifier, RMS detector, integrator or time averages, output meter, and weighting network used to measure sound pressure levels.

1. *Sound level meter* shall mean a calibrated instrument which includes a microphone, amplifier, RMS detector, integrator or time averages, output meter, and weighting network used to measure sound pressure levels. Performance standards require the use of sound level meters and trained personnel

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2.

(Ord. No. 94706, § 2(Attach. A), 9-13-01; Ord. No. 2007-04-05-0371, § 1, 4-5-07)

## **Sec. 21-52. Noise nuisance enumeration.**

- (a) The following acts, among others not hereinafter enumerated, are declared to be "noise nuisances," and are unlawful and in violation of the provisions of this division when such acts are done or accomplished or carried on in such a manner, or with such volume, intensity, or with continued duration, so as to annoy, to distress, or to disturb the quiet, comfort, or repose of a person of reasonable nervous sensibilities, within the vicinity or hearing thereof, or so as to endanger or injure the safety or health of humans or animals, or so as to interfere with the physical well being of humans or animals, or so as to endanger or injure personal or real property:

1. The following acts, among others not hereinafter enumerated, are declared to be "noise nuisances," and are unlawful and in violation of the provisions of this division when such acts are done or accomplished or carried on in such a manner, or with such volume, intensity, or with continued duration, so as to annoy, to distress, or to disturb the quiet, comfort, or repose of a person of reasonable nervous sensibilities, within the vicinity or hearing thereof, or so as to endanger or injure the safety or health of humans or animals, or so as to interfere with the physical well being of humans or animals, or so as to endanger or injure personal or real property:

Used by legal when we do not have decibel level readings, citizen is required to come in.

**Task force not in favor of narrowing description of a nuisance.** Would like to expand it.

Definition is fine the way it is without changes.

Legal will work on formatting – clarification

Information on reasonable standard-Legal

- (1) The playing or permitting or causing the playing of any radio, television, phonograph, drum, juke box, nickelodeon, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound.
- (2) Any loud or vociferous language or any soliciting for, or description of, any amusement house, moving picture theater, or other like place of amusement, or for the performance therein, in the entrance thereto, the foyer or lobby thereof, or on the sidewalks adjoining the same.
- (3) The keeping of any animal, fowl, or bird, which makes frequent or long, continued noise.

1. ~~The keeping of any animal, fowl, or bird, which makes frequent or long, continued noise.~~

Not in favor of narrowing

- (4) The continued or frequent sounding of any horn or other signal device on any automobile or vehicle, motorcycle, bus or other vehicle, except as a danger signal.
- (5) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, or other motor vehicle or boat, except through a muffler or other device which prevents loud or explosive noises therefrom.

1. ~~The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, or other motor vehicle or boat, except through a muffler or other device which prevents loud or explosive noises therefrom.~~

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- (6) The erection, including construction, excavation, demolition, alteration, or repair work, or the permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tools or equipment used in construction, excavation, drilling, demolition, alteration or repair work:

1. Construction times need to be addressed

2. Add a section on Maximum permissible sound levels (Houston definition) no person shall conduct, permit or allow any activity or sound source to produce a sound discernible at any location beyond the property lines of the property on which the sound is being generated. Code exceeds the applicable dB (A) level LISTED BELOW FOR THE PROPERTY ON WHICH THE SOUND IS RECEIVED:

- a. Other than during the daytime on week days; or
  - b. At anytime such that the sound level at or across a real property boundary exceeds 80dBA.
  - c. This section shall not apply in cases of urgent necessity in the interest of public safety, or in cases of public convenience, including city sponsored or co-sponsored fiestas, parades, and public events.
- (7) The crying, calling, or shouting, in person or by a mechanical device, or the use of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, loudspeaker or phonograph with or without an amplifier, hand organ, or other devices or instruments, musical or otherwise.
- (8) The raucous shouting, whistling, yelling, singing, hooting, or crying of peddlers, hawkers, vendors or any other persons.
- (9) The making of noise which exceeds sixty-three (63) decibels on residential zoned property as defined by Chapter 35 (Unified Development Code), when measured from property under separate ownership.

1. Does there need to be clarification re 'property under separate ownership'? Adjacent residential property at property line? 100 ft from point of origin of noise?

2. 9-12 One way to simplify is to have just residential and nonresidential and dB for each category. Eliminate the others especially entertainment zones (12). The Entertainment section is unreadable and there should be no entertainment zones adjacent to residential communities. When SAPD goes out or even Code Compliance the dB requirement should be clear. Example one bar said they were an entertainment zone and their dB should be 85 the officers didn't know what their zoning was (it was commercial). See section 21-51 Definitions for definitions of residential and non-residential. Also, non-residential includes public roads and parks. I realize this involves zoning updates in definitions. Use River Walk for nonresidential regulations but maintain 70-72 dB but lower at night by 7 dB.

3. Residential Property: a) 63 dB (A) during daytime hours; b) 56 dB(A) during nighttime hours

4. Definition regarding decibel levels in residential areas needs clarification to mean only those decibel levels are allowed during the allowed weekend and weekday hours under 21-51 when related to commercial businesses operating adjacent to single-family areas. After the allowed hours, ***I propose that any music or amplification that is audible after the allowed hours is prohibited. Or some variation similar to the Riverwalk noise overlay rules.***

5. The making of noise on any property during the nighttime which exceeds sixty-three (63) decibels ~~on~~ at any nearby residential zoned property as defined by Chapter 35 (Unified Development Code), when measured ~~from property under separate ownership~~ at the point of the reported nuisance.

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- (10) The making of noise which exceeds seventy (70) decibels on business zoned property as defined by Chapter 35 (Unified Development Code), when measured from property under separate ownership.
1. Nonresidential Property; a) 70 dB during daytime hours; b) 63 during nighttime hours. These terms are used in other sections (example Sec 21-55)
  2. The making of noise on any property during the daytime which exceeds seventy (70) decibels ~~on business~~ at any nearby residential zoned property as defined by Chapter 35 (Unified Development Code), when measured ~~from property under separate ownership~~ at the point of the reported nuisance.
- (11) The making of noise which exceeds seventy-two (72) decibels on industrial zoned property as defined by Chapter 35 (Unified Development Code), when measured from property under separate ownership.
- ~~1. The making of noise which exceeds seventy two (72) decibels on industrial zoned property as defined by Chapter 35 (Unified Development Code), when measured from property under separate ownership.~~
  2. Nonresidential Property; a) 70 dB during daytime hours; b) 63 during nighttime hours. These terms are used in other sections (example Sec 21-55)
  - ~~3. The making of noise on any property which exceeds seventy-two (72) decibels on industrial zoned at any nearby property as defined by Chapter 35 (Unified Development Code), when measured from property under separate ownership. at the point of the reported nuisance.~~
- (12) The making of noise which exceeds eighty-five (85) decibels using the Leq method of noise measure for noise emanating from entertainment zoned property as defined by Chapter 35 (Unified Development Code), when measured from property under separate ownership. Any adjacent property owned, leased, controlled or managed by any person or entity or any affiliate that directly or indirectly controls, is controlled by, or shares common control with the other entity that has an ownership interest or lease interest in the monitored property shall not be considered property under separate ownership for purposes of determining the boundaries of the noise source property in an entertainment district.
- ~~1. The making of noise which exceeds eighty five (85) decibels using the Leq method of noise measure for noise emanating from entertainment zoned property as defined by Chapter 35 (Unified Development Code), when measured from property under separate ownership. Any adjacent property owned, leased, controlled or managed by any person or entity or any affiliate that directly or indirectly controls, is controlled by, or shares common control with the other entity that has an ownership interest or lease interest in the monitored property shall not be considered property under separate ownership for purposes of determining the boundaries of the noise source property in an entertainment district.~~
  2. Eliminate the reference to entertainment zoned districts. No business should be allowed to operate as a nuisance regardless of how zoned.

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Noise is a public health issue. Why are bars and restaurants that produce numerous nuisance secondary offenses be allowed to also operate at noise levels that are a nuisance.

Alternatively, add a qualifier such as "except when such entertainment zoned district is abutting/adjacent to or within a stated distance from an area occupied predominantly by single-family residences."

Example is Fiesta Texas, Sea World

Residential does not like the fireworks-Place on hold will be reviewed  
85dbs is to high.

Entertainment zone definition and exceptions to include map-Development Services will provide at next meeting

Assure SAPD is aware of the Entertainment zones currently and new info that is approved.

City to recommend sound buffering structures or vegetation.

3. ~~The making of noise which exceeds eighty five (85) decibels using the Leq method of noise measure for noise emanating from entertainment zoned property as defined by Chapter 35 (Unified Development Code), when measured from property under separate ownership. Any adjacent property owned, leased, controlled or managed by any person or entity or any affiliate that directly or indirectly controls, is controlled by, or shares common control with the other entity that has an ownership interest or lease interest in the monitored property shall not be considered property under separate ownership for purposes of determining the boundaries of the noise source property in an entertainment district.~~

4. (12) The making of lower octave, bass, or low frequency noise, such a thudding, thumping, booming and pounding which is audible on any nearby residential property without the medium or higher octave, tenor or alto, or higher frequency part of the source noise clearly audible.

(b) Special noise corrections. Corrections shall be made to the basic octave band levels specified in subsections 21-52(a)(10) through (12) and section 21-60(b) for the specific conditions listed in accordance with the following table, designated as Table 1, except that nighttime corrections shall not apply in the River Walk area.

~~1. Special noise corrections. Corrections shall be made to the basic octave band levels specified in subsections 21-52(a)(10) through (12) and section 21-60(b) for the specific conditions listed in accordance with the following table, designated as Table 1, except that nighttime corrections shall not apply in the River Walk area.~~

Business community stick with as is.

Simplify the table to read and understand DBs levels

Riverwalk has gold standard Sam would also like the gold standard

Lesser standard for residential not appropriate should be even, bring up to river walk standard.

(c) River Walk Area corrections. Subsections (a)(10) through (12) above shall not apply in the River Walk Area, which shall be, regulated by the noise provisions in section 21-60.

TABLE 1
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<i>Corrections Permitted to Basic Octave Band Levels</i>		
Noise is Present at Nighttime	Subtract	7 dB
Noise Contains Strong Pure-Tone Components or is Impulsive (Meter reading changes at a rate greater than 10 dB per second)	Subtract	7 dB
<i>Noise Has an "On Time" of No More Than:</i>	<i>And an "Off Time" Between Successive "On Times" of at Least:</i>	
0.5 minutes	1 hour	
5.0 minutes	1 hour	Add 10 Decibels
10.0 minutes	2 hour	to Permitted
20.0 minutes	4 hour	Levels

1. Not clear why Noise has an ON Time and Off time?
2. Should there be permits to have a loudspeaker or sound amplifiers that causes any sound to be projected outside of any building or out-of-doors? Permits could assess the proximity to residential neighborhoods, schools etc and the setting of the applicant and placement of the speakers
3. River Walk Area corrections. Subsections (a)(10) through (12) above shall not apply in the River Walk Area, which shall be, regulated by the noise provisions in section 21-60.
4. →

<del>TABLE 1</del>		
<i>Corrections Permitted to Basic Octave Band Levels</i>		
Noise is Present at Nighttime	Subtract	7 dB
Noise Contains Strong Pure-Tone Components or is Impulsive (Meter reading changes at a rate greater than 10 dB per second)	Subtract	7 dB
<i>Noise Has an "On Time" of No More Than:</i>	<i>And an "Off Time" Between Successive "On Times" of at Least:</i>	
0.5 minutes	1 hour	
5.0 minutes	1 hour	Add 10 Decibels
10.0 minutes	2 hour	to Permitted
20.0 minutes	4 hour	Levels

5.

(Ord. No. 94706, § 2(Attach. A), 9-13-01)



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### **Sec. 21-53. Vibration.**

It shall be unlawful for any person to create, maintain or cause any ground or airborne vibration which is perceptible without instruments at any point on any affected property adjoining the property in which the vibration source is located.

1. Define vibration. Amplified base can cause vibrations in neighborhoods which they can feel- vibrating windows. This is often caused by amplified base sounds measured by dB (C). Some neighbors would like to see both dB (A) and dB (C) measurements.
2. Most appropriate, written very clearly, NEVER enforced. SAPD Officers responding would confirm feeling the vibrations, but would not act on basis of vibration. So we would support wording as is, but broad awareness and willingness to enforce on SAPD and City Attorney level

Enforce the vibration, something more objective.

Legal it is written objectively but requires citizens to come in to testify.

SAPD understand for enforcement.

SAPD handout.

Why is SAPD not filing compared to having the citizen to file.

Margaret Leeds questioning enforcement and evidence gathering.

Legal recommends to assure education of all parties after ordinance change.

What is SAPD using to gather evidence of noise and vibration violations.

Business like 21-52

Can PD or City official use phone apps to measure db-no-Residents can but would need to turn phone over for evidence.

Can city make a legal app to measure DB? Legal research

Simplifying and educate officers enforcing ordinance.

(Ord. No. 94706, § 2(Attach. A), 9-13-01)

### **Sec. 21-54. Vehicular mounted sound amplification systems.**

It shall be unlawful for any person operating or controlling a motor vehicle in either a public or private place within the city to operate any sound amplifier which is part of, or connected to, any radio, stereo receiver, compact disc player, cassette player, or other similar device in the motor vehicle, in such a manner that, when operated, is audible at a distance of thirty (30) or more feet from the source or, when operated causes a person to be aware of the vibration accompanying the sound in any location outside the confines of the vehicle emitting the sound, noise, or vibration. A culpable mental state is not necessary to constitute a violation of this section.

(Ord. No. 94706, § 2(Attach. A), 9-13-01)

1. The most common complaints from neighbors are: increase in traffic noise; drag racing; and motorcycled noise- These concerns need to be addressed.

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2. Understand the difficulties of enforcement, but this seems to be a '**Plainly audible**' use. We would support enforcement of this section, as well as residential and commercial property issues, using this '**Plainly Audible**' definition, including notation of allowable distance.

## **Sec. 21-55. Exceptions.**

The provisions of this division shall not apply to:

- (1) The emission of sound for the purpose of alerting persons to an emergency; or
- (2) Sound produced by emergency vehicles; or
- (3) Sound produced by a vehicle motor while the vehicle is moving on a public right-of-way, public waterway, airport runway, or railway; or
- (4) Sound produced by any governmental body in the performance of a governmental function; or
- (5) Sound generated at a scheduled stadium event; by parade spectators and participants on the parade route during a permitted parade; by outdoor celebration participants sponsored or co-sponsored by the city for the general welfare of the public; by patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnic permit has been obtained and the explosives have been inspected and approved by the fire marshal; by pyrotechnic displays that are inspected and approved by the city fire marshal.
  1. Unamplified sound generated at a scheduled event starting prior to 8pm generated by stadium sporting event crowd; by parade spectators and participants on the parade route during a permitted parade; by outdoor celebration participants sponsored or co-sponsored by the city for the general welfare of the public; by patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnic permit has been obtained and the explosives have been inspected and approved by the fire marshal; by pyrotechnic displays that are inspected and approved by the city fire marshal.
- (6) Sound produced by the operation of any air-conditioning unit, heat pump, or swimming pool machinery which does not produce a sound exceeding sixty-three (63) dBA on residential property or seventy (70) dBA on non-residential property, when measured at a distance of either fifteen (15) feet from the equipment producing the sound, or to the nearest exterior wall of a residential or commercial building under separate ownership, whichever distance is shorter.
- (7) Sound produced solely for the purpose of encouraging citizen participation in elections.

(Ord. No. 94706, § 2(Attach. A), 9-13-01)

## **Sec. 21-56. Method of noise measurement.**

Whenever portions of this chapter prohibit noise over a certain decibel limit, measurement of said noise shall be made with a decibel meter meeting the standards prescribed by the American National Standards Institute. The instruments shall be maintained in calibration and good working order. Calibration corrections shall be employed in meeting the response specifications prior to every sampling of noise. Measurements recorded shall be taken so as to provide a proper representation of the noise being measured. The microphone shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary

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noise being measured. Times when the level of primary noise being measured does not exceed that of the background noise shall be considered as "off times" of the primary noise in determining the corrections from the correction table found in subsection 21-52(b). Except as provided in subsection 21-52(a)(12), measurements may be taken at a point on adjacent public or private property or on either side of an adjacent public right-of-way at or near the boundary line of the property where the noise is generated.

1. Sound using today's amplified equipment may not change or change very little with distance. Sound waves travel from the source and rebound when encountering obstacles (e.g., buildings, cars, pavement, etc.). Noise level may be amplified because the listener hears the original noise, plus all of the reflections; thus, combined impact is greater. Many environments affect sound by selecting, reflecting and or absorbing the sound. For an example of location of sound, a Texas A&M\*\* study cites highway noise on "at grade" level freeways are louder than elevated or depressed freeways. Living surrounded by Brackenridge Park I wondered why we can hear a Bar on Broadway when we are separated by part of the golf course. Why do neighbors in River Road and Monte Vist complain about noise from Sunken Gardens? Why can we clearly hear speakers at Alamo Stadium during games or performances. The noise travels way beyond the property line to neighborhoods that are not adjoining. The bar on Broadway may be 70 dB (A) and in river Road it still is 70 dB (A) but our residential area should be 63 dB (A). Measurements should also be taken at the source of complaints. Also "Plainly Audible" practice as Dr. Doski and Sam Aguirre have proposed should be addressed. We should have a discussion on this topic.
2. ~~Whenever portions of this chapter prohibit noise over a certain decibel limit,~~ measurement of ~~said~~ noise shall be made with a decibel meter meeting the standards prescribed by the American National Standards Institute. The instruments shall be maintained in calibration, ~~charged~~ and good working order. Calibration corrections shall be employed in meeting the response specifications prior to every sampling of noise. Measurements recorded shall be taken so as to provide a proper representation of the noise being measured. The microphone shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. Times when the level of primary noise being measured does not exceed that of the background noise shall be considered as "off times" of the primary noise in determining the corrections from the correction table found in subsection 21-52(b). Except as provided in subsection 21-52(a)(12), measurements may be taken at a point on adjacent public or private property or on either side of an adjacent public right-of-way at or near the boundary line of the property where the noise is generated. (See intro in red to this section – may also need to take measurement at point of complaint or instead use Plainly Audible) Regardless of the measurable dB(A) (correctly measured)" the creation of any sound causing persons occupying or using any property other than the property upon which the sound is being generated to be aware of vibrations or resonance caused by the sound shall be prima facie evidence of a sound that unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others" (Houston Ordinance No. 2011-874)
3. ~~Times when the level of primary noise being measured does not exceed that of the background noise shall be considered as "off times" of the primary noise in determining the corrections from the correction table found in subsection 21-52(b). Except as provided in subsection 21-52(a)(12), measurements may be taken at a point on adjacent public or private property or on either side of an adjacent public right-of-way at or near the boundary line of the property where the noise is generated.~~
4. Whenever portions of this chapter prohibit noise over a certain decibel limit, measurement of said noise shall be made with a decibel meter meeting the standards prescribed by the American National Standards Institute. The instruments shall be maintained in calibration and good working order. Who is going to maintain? Suggest DSD. Calibration corrections shall be employed in meeting the response specifications prior to every sampling of noise. Measurements recorded shall be taken so as to provide a

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proper representation of the noise being measured. The microphone shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. Times when the level of primary noise being measured does not exceed that of the background noise shall be considered as "off times" of the primary noise in determining the corrections from the correction table found in subsection 21-52(b). **With all of these aspects added, can there be reasonable measurements taken at time of complaint?** Except as provided in subsection 21-52(a)(12), measurements may be taken at a point on adjacent public or private property or on either side of an adjacent public right-of-way at or near the boundary line of the property where the noise is generated.

(Ord. No. 94706, § 2(Attach. A), 9-13-01)

## **Sec. 21-57. Enforcement.**

### **(a) Administrative stop order.**

- (1) The director, his/her designee, or duly authorized noise abatement officers may issue an order to any person having possession or control over noise generating property to immediately halt any sound which exposes any person, except those excluded in subsection (2) below, to continuous or impulsive noise levels in excess of those shown in Table 1. Within five (5) days following issuance of such an order, the director or his/her duly authorized representative may apply to the appropriate court for an injunction to replace the administrative stop order.

1. **Table 1 is not clear about its' purpose and how often it's used.**

2. **We have specific instances of SAPD receiving complaint, asking commercial business to turn it down, the business complying, SAPD leaving area, and repeat complaint within the hour for return to excess noise levels. Administrative Stop order good, but irrelevant if not used.**

- (2) No stop order shall be issued if the only persons exposed to sound levels in excess of those listed in Table 1 are exposed as a result of:

a. Trespass; or

b. Invitation upon private property by the person causing or permitting the sound.

1. **No stop order shall be issued if the only persons exposed to sound levels in excess of those listed in Table 1 are exposed as a result of:**

- (b) *Seizure of noise producing property.* The director or his/her duly authorized agents are hereby authorized to apply to any magistrate for an administrative search warrant for the purpose of entering private property to investigate and identify noise nuisance producing devices, machines, instruments, or objects. Such identified property may be seized to summarily abate the noise nuisance if:

1. **(How often does this happen?)**

1. A person who is cited for the subject noise violation has been convicted of a violation of any provision of this article within the preceding twelve (12) months, or has been declared to be an "habitual noise nuisance violator" within the preceding twenty-four (24) months; or

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1. A person who is cited for the subject noise violation has been convicted of a violation of any provision of this article within the preceding twelve (12) months, or has been declared to be an "habitual noise nuisance violator" within the preceding twenty-four (24) months; or Rarely are offenders, even repeat offenders, cited.

- (2) The location of the noise nuisance has been declared an habitual noise nuisance source by the director, after appropriate notice to the real property owner or person in possession of the subject noise-source real property, of an administrative hearing to be held for the purpose of hearing evidence and determining whether the subject location is in fact an "habitual noise nuisance source." Upon finding a location to be an "habitual noise nuisance source," the noise producing property shall be immediately seized at the time of any subsequent violations whether or not there is a previous noise nuisance conviction associated with the location.

1. How often does this occur?

Such seizures shall be for the purpose of assuring continued cessation of the noise nuisance after the departure of the noise abatement peace officers by securing the instrumentality of the noise nuisance temporarily. The noise producing device, machine, instrument, or object shall be returned to the owner or person proving the right of possession, or to his/her authorized agent, not sooner than twenty-four (24) hours after seizure. Any disputed ownership or right of possession shall be resolved at a property disposition hearing before a magistrate of the city. Seizure of noise nuisance producing property shall be accomplished in addition to and not in lieu of municipal court prosecution and/or a civil suit for injunctive relief and civil penalties.

- (c) *Impoundment of noise nuisance animals.* Upon the determination by the director that any animal(s) at an identified address or location within the city has produced noise on two (2) occasions of a nature and intensity that violates the standards established by this division and/or section 5-201, animal nuisances, he/she may notify the resident or occupant that the animal(s) are producing a noise nuisance, and that an administrative hearing shall be held for the purpose of determining if the animal(s) constitute a continuing noise nuisance which must be summarily abated by seizure and impoundment until the owner or person from whom the animal was seized provides written consent of another person to provide shelter and care for the animal(s) in a fenced property not less than two hundred (200) feet from any neighboring residential structure or until the tenth day of impoundment. Said animals shall be destroyed if not reclaimed on or before the ten (10) days of impoundment.

~~1. Said animals shall be destroyed if not reclaimed on or before the ten (10) days of impoundment. Said animals shall be taken to the City of San Antonio Animal Care Services for adoption.~~

- (d) *Declaration of habitual noise nuisance producer.* After producing noise measured at decibels in excess of the maximum allow by this article on three (3) separate days within a 12-month period, the noise producer shall be given notice of an administrative hearing before a municipal court magistrate for the purpose of introducing evidence so that the magistrate can make a determination of whether or not the cited noise producer is an "habitual noise nuisance producer," and if the magistrate so finds, a written declaration of said finding shall be signed by the magistrate and kept on file by the abatement officer for a period of one year.
- (e) *Declaration of habitual noise nuisance location.* After the production of noise in excess of that allowed by this article by anyone at the same address or property location on three (3) separate days within a 12-month period, the owner or lessee or person in possession shall be given notice of an administrative hearing before a municipal court magistrate for the purpose of introducing evidence so that the magistrate can make a determination of whether or not the location is an "habitual noise nuisance source," and if the magistrate so finds, a written declaration of said finding shall be signed by the magistrate and shall be kept on file by the abatement officer for a period of one (1) year.

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- (f) *Seizure.* If the magistrate determines that the noise producer is an "habitual noise nuisance producer" or that the location is an "habitual noise nuisance source," the noise producing instrument, equipment, or other noise producing item used by the habitual noise nuisance producer may be immediately seized at the time of a subsequent decibel measurement in excess of that allowed by this article. At the time of such seizure, a written notice of the right to an immediate administrative hearing before a municipal court magistrate shall be issued to the habitual noise producer or owner or person in possession of the habitual noise nuisance source. The hearing shall be for the purpose of determining if a noise nuisance actually occurred on which the abatement officer based his seizure, and to voice any complaints about the manner of the seizure. If the noise produced is determined by the magistrate not to constitute a noise nuisance, the subject property shall be immediately delivered to the person from whom it was seized.

1. -Comments- Enforcement. Agree with Dr. Doski to be able to have an approach that is easy to use and available 24/7. A Department for noise? Response times need to be when the noise event happens. SAPD is the highest paid man power, if there is another way to use a team that can be effective and remain safe, they may be able to replace or work with SAPD. Violations need to be dealt with when they happen. Consequences should be consistent- how many warnings- when to give citations- what type of citations. At present officers responding to a noise complaint (non-animal) rely on this Noise ordinance or Texas Penal Code 42.01, Disorderly conduct to address the complaint. Depending on the circumstances the officer may address the complaint through a verbal warning ( which is most of the time)or by issuing a misdemeanor citation. If the officer issues a misdemeanor citation, the officer shall attach the citation to a copy of the incident report and forward them to Municipal Court.

I listened to the Public Safety meeting; Culture and Neighborhood Service Committee; Governance Committee and Strategic Planning Council meeting it appears that SAPD would like to relinquish their role in enforcing the noise ordinance.

Neighborhoods with *loud neighbor complaints* worried about the safety of Code compliance officers arriving at neighbors' homes. Other neighbors worried they would lose 24/7 access. Will Clubs/Bars entertainment venues respond to non SAPD.

Need a set policy. Is this the place we can talk about citations and the procedure for citations? We talk about seizure of property in detail and in Sec 21-80 the penalties for parties- but it is not clearly explained in Sec 21-58 what is the financial penalties for noise. St. Mary's Street and Oak Park have repeat offenders with minimal consequences.

Under the Noise Ordinance Analyses sent to you by Dr. Doski there are examples of penalties and cost recovery for responses to disturbances.

(Ord. No. 94706, § 2(Attach. A), 9-13-01; Ord. No. 2007-04-05-0371, § 1, 4-5-07)

## **Sec. 21-58. Penalties.**

Fully support, question whether ever enforced.

- (a) It shall be unlawful for a person to do or perform any act prohibited by this article, and it shall be unlawful for a person to fail to do or perform any act required by this article. A violation of this article is a class C misdemeanor offense, no culpable mental state or criminal intent is required, and upon conviction, a person shall be fined an amount not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00).

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- (b) Unless otherwise specifically provided for in this article, if it is found that a person intentionally, knowingly or recklessly violated any provision of this article, then upon conviction a person shall be fined an amount not less than one hundred dollars (\$100.00) and not more than two thousand dollars (\$2,000.00) except that, in the event a person has once previously been convicted under this article, the person shall be fined an amount not less than two hundred dollars (\$200.00) and shall be fined not less than three hundred dollars (\$300.00) for a third conviction and for each conviction thereafter.
- (c) Nothing in this section shall limit the remedies available to the city in seeking to enforce the provisions of this chapter. Each day's violation thereof shall constitute a separate offense.

(Ord. No. 94706, § 2(Attach. A), 9-13-01; Ord. No. 2008-03-06-0168, § 1, 3-6-08)

### **Sec. 21-59. Identification of violator.**

The persons responsible for violations of this division are identified as follows:

- (1) *At private residences.* Any adult resident present at the time of the offense, and any adult guest or adult trespasser with the ability to control the level of noise at the time of the offense when no adult resident is present at the time of the offense.
- (2) *At business locations.* Any business owner, operator, manager, employee in charge, and all persons in control or in possession of the noise nuisance generating instrument or property at the time of the offense.
- (3) *At any location with an unattended noise nuisance producing machine, device, instrument, child, animal or combination of same.* Any person who leaves unattended any machine, instrument, device, child, animal, or any combination of same, which thereafter commences producing noise in violation of this article.

(Ord. No. 94706, § 2(Attach. A), 9-13-01; Ord. No. 2007-04-05-0371, § 1, 4-5-07)

### **Sec. 21-60. River Walk standards.**

Why is the River Walk different? Why did they decide to do the dB ( C ) readings? The River walk is given special treatment for a specific area because of the close quarters and tourist.

Would strongly advocate for expanded application of River Walk standards in these downtown business corridors where there are multiple adjoining businesses, each with outdoor amplification capacity.

In addition to the foregoing noise regulations, the following acts are declared to be noise nuisances when occurring in the River Walk area and it shall be unlawful for establishments located in the River Walk area, and the owners, managers, or officers thereof:

- (1) To place or cause to be placed speakers or amplified music on or near the patio of the establishment or in any other location outside the enclosed building on any side of the premises which can be seen from the San Antonio River;
- (2) To create or allow the creation of noise from the establishment which exceeds a decibel level of seventy-two (72) dBA using the A frequency weighting and eighty (80) dBC using the C frequency weighting. This section is intended to prohibit the stated noise levels under both frequency measurements; and



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- (3) To, if the establishment has been declared a habitual noise nuisance under section 21-57 of this chapter, and in addition to the remedies provided in section (e) thereof, keep any windows and doors to the establishment open after the hour of 10:00 p.m. except as necessary to provide for entry and exit to and from the establishment for a period of ninety (90) days from the date of declaration.

For purposes of this chapter, the term, "River Walk area" shall have the meaning assigned to it in Chapter 35, Article III of this Code.

1. Consider identifying specific downtown commercial corridors with immediate residential properties impacted by outdoor amplified noise and include in this section. Clear, simple, enforceable. If ok for Riverwalk, should be ok for Southtown, North St Mary's

(Ord. No. 94706, § 2(Attach. A), 9-13-01)

### **Sec. 21-61. Appointment of abatement officers.**

The city manager, his/her designee, or the director is authorized to appoint state licensed peace officers as "abatement officers" for nuisance abatement duties, and said officers shall report to the director or his/her designee as members of the staff of said department. Each peace officer appointment shall terminate with the termination of the nuisance abatement duty for which the peace officer was hired.

1. Under DSD
2. Would support implementation of this Section under DSD- activation of complaint, response, enforcement, followup and long term record keeping.

(Ord. No. 94706, § 2(Attach. A), 9-13-01; Ord. No. 2007-04-05-0371, § 1, 4-5-07)

### **Secs. 21-62—21-65. Reserved.**

### **Secs. 21-62 Public Information**

The following shall be published, publicly accessible and available without need for an opens records request

- (1) All noise complaints including the following information
  - a. date and location
  - b. determination by officer responding
  - c. citations issued for violation with names redacted
  - d. fines and status of payment

## **PART II - CODE**

### **Chapter 21 - OFFENSES AND MISCELLANEOUS PROVISIONS**

#### **ARTICLE III. - NOISE**

#### **DIVISION 2. QUIET ZONES**

### **Sec. 21-66. Created.**

- (a) *Schools and other institutions of learning.* All territory embraced within a distance of two hundred and fifty (250) feet of the real property upon which is situated any public or private school or institution of learning is



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hereby declared to be "Quiet Zone" during the period of time the schools and institutions of learning are in session.

- (b) *Hospitals and sanitariums.* All territory embraced within a distance of two hundred and fifty (250) feet of the real property upon which is situated any hospital, sanitarium or other like institution for the treatment of sick persons, public and private, shall be held to be, and are declared to be "Quiet Zones."

(Ord. No. 94706, § 2(Attach. A), 9-13-01)

## **Sec. 21-67. Display of signs and placards.**

It shall be the duty of the director to place and maintain, or cause to be placed and maintained, on lampposts or other such post or object in some conspicuous place on every street, avenue, and alley in the vicinity of every school or other institution of learning, public and private, and every sanitarium, hospital or other like institution, public and private, signs or placards which shall indicate that the same is a "quiet zone." The signs or placards shall be placed on such streets, avenues and alleys at a distance of not less than two hundred fifty (250) feet in every direction from the real property upon which is situated, any school or other institution of learning, or any hospital, sanitarium or other like institution for the treatment of sick persons. The signs or placards shall read in a manner similar to, but not restricted to the following: "School—Quiet Zone," or "Hospital—Quiet Zone." Where proper and lawful, the signs or placards designating a quiet zone may also designate the lawful speed limit in such school, or other institution of learning, zone or area in a manner similar to, but not restricted to, the following: "School—Quiet Zone—Speed Limit M.P.H."

(Ord. No. 94706, § 2(Attach. A), 9-13-01; Ord. No. 2007-04-05-0371, § 1, 4-5-07)

## **Sec. 21-68. Creation of "noise nuisance" therein.**

The making, causing, or creating, or permitting or allowing to be made, caused, or created, any loud, vexing, irritating or disturbing noise which interferes with the operations or workings of any school, or other institution of learning, public or private, or hospital, sanitarium or other like institution for the treatment of sick persons, public or private, situated within an area designated as a "Quiet Zone" is hereby declared to be a "noise nuisance," unlawful and prohibited.

(Ord. No. 94706, § 2(Attach. A), 9-13-01)

## **Secs. 21-69—21-79. Reserved.**

### **PART II - CODE**

#### **Chapter 21 - OFFENSES AND MISCELLANEOUS PROVISIONS**

#### **ARTICLE III. - NOISE**

#### **DIVISION 3. PARTY, GATHERING, EVENT**

#### **1. ~~PARTY, GATHERING, EVENT~~ NOISE VIOLATOR RESPONSIBILITIES**

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## Sec. 21-80. Definitions.

There is no discussion about noise from individual neighbors in neighborhoods and renters in apartment buildings. Parties get more attention the noise from bars/clubs

*Officer* shall mean a police, peace, or abatement officer.

*Party, gathering or event* shall mean a group of five (5) or more persons who have assembled or are assembling in a manner so as to create a substantial disturbance of the quiet enjoyment of private or public property. This includes, but is not limited to, excessive noise or traffic, fights, and/or disturbances of the peace.

*Person responsible for the party, gathering or event* shall mean:

1. ~~Person responsible for the party, gathering or event~~ shall mean:

- (1) Any adult person in actual or lawful control or possession of the premises;  
1. Any adult person in actual or lawful control or possession of the premises where the noise violation was generated;
- (2) Any adult person who organized the party, gathering or event; or  
1. Any adult person who organized the party, gathering or event where the noise violation was generated; or
- (3) The parent or guardian having custody or control of any minor responsible for the party, gathering or event regardless of whether the parent or guardian was present at the time of the party, gathering or event.  
1. The parent or guardian having custody or control of any minor responsible for the party, gathering or event regardless of whether the parent or guardian was present at the time of the party, gathering or event **where the noise violation was generated.**
- (4) The owner or manager of the business operating where the noise violation was generated.

*Reasonable costs* may include:

- (1) The salary of the each responding officer, at the salary then in effect for each classification of each individual officer, for the amount of time actually spent at the location in responding to the party, gathering, or event;  
1. The salary of the each responding officer, at the salary then in effect for each classification of each individual officer, for the amount of time actually spent at the location in responding to the ~~party, gathering, or event~~ **noise complaint**;
- (2) The actual cost of any medical treatment to injured officers;
- (3) The cost of repairing any damaged city equipment or property; and
- (4) A one hundred fifty dollar (\$150.00) administrative fee.

(Ord. No. 2007-04-05-0371, § 2, 4-5-07)

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## **Sec. 21-81. Persons responsible for party liable for city costs.**

### **Sec. 21-81. Persons responsible for party liable for city costs**

Recommend that, in conjunction with amending the definition of party, gathering or event, bars, restaurants and businesses be included as having liability for city costs associate with enforcement.

- (a) Should an officer respond to a party, gathering or large event and while at the location determines that there is a substantial disturbance of the quiet enjoyment of private or public property, any person responsible for the party, gathering or event shall be liable for the reasonable costs of any second or subsequent response by any police officer to that same incident or for a response to the same location for another party, gathering or event within sixty (60) days.

1. Should an officer respond to a ~~party, gathering or large event~~ **noise complaint** and while at the location determines that there is a substantial disturbance of the quiet enjoyment of private or public property, any person responsible ~~for the party, gathering or event~~ shall be liable for the reasonable costs of any second or subsequent response by any police officer to that same incident or for a response to the same location ~~for another party, gathering or event~~ within sixty (60) days.

2. If two (2) or more persons are responsible ~~for the party, gathering or event~~ such persons shall be jointly and severally liable for the reasonable costs of a second or subsequent response.

- (b) If two (2) or more persons are responsible for the party, gathering or event such persons shall be jointly and severally liable for the reasonable costs of a second or subsequent response.
- (c) The liability imposed by this section may be in addition to any civil or criminal penalties or fines.

(Ord. No. 2007-04-05-0371, § 2, 4-5-07)

## **Sec. 21-82. Notice of liability.**

- (a) Upon determining that the party, gathering or event is a substantial disturbance of the quiet enjoyment of private or public property, the responding officer shall notify any person responsible for the party, gathering or event that a second response the same day or subsequent response within sixty (60) days from the date of the current party, gathering or event will result in liability for the reasonable costs of the second or subsequent response.

1. Upon determining that the ~~party, gathering or event~~ **noise generation** is a substantial disturbance of the quiet enjoyment of private or public property, the responding officer shall notify any person responsible ~~for the party, gathering or event~~ that a second response the same day or subsequent response within sixty (60) days from the date of the current **noise violation party, gathering or event** will result in liability for the reasonable costs of the second or subsequent response.

- (b) The city shall notify any person responsible for the party, gathering or event of the reasonable costs within sixty (60) days of each second or subsequent response. The reasonable costs for multiple subsequent responses may be included in one statement. The notice shall be delivered to the address the person responsible provides to the responding officer.

1. The city shall notify any person responsible ~~for the party, gathering or event~~ of the reasonable costs within sixty (60) days of each second or subsequent response. The reasonable costs for multiple subsequent responses

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may be included in one statement. The notice shall be delivered to the address the person responsible provides to the responding officer.

(Ord. No. 2007-04-05-0371, § 2, 4-5-07)

### **Sec. 21-83. Exceptions and limitations.**

- (a) The costs of a second or subsequent response shall be waived if any person responsible for the party, gathering or event initiated the request for a police response and assisted the officers in dispersing persons at the party, gathering or event.

1. The costs of a second or subsequent response shall be waived if any person responsible for the party, gathering or event initiated the request for a police response and assisted the officers in dispersing persons at the party, gathering or event.

- (b) The costs assessed for each second or subsequent response shall not exceed one thousand dollars (\$1,000.00) per response.

(Ord. No. 2007-04-05-0371, § 2, 4-5-07)

### **Sec. 21-84. Hearing procedures.**

- (a) A person liable for the costs of a response may, within ten (10) days of receipt of notice of the costs imposed, request a hearing with an administrative hearing officer duly appointed by the city manager or his/her designee.
- (b) Failure of the person liable for the costs to timely request a hearing or failure to appear at a scheduled hearing shall constitute a waiver of the right to a hearing or to challenge the validity or amount of the costs imposed and shall be an admission of liability.
- (c) A hearing shall be scheduled as soon as practicable but within thirty (30) days of the receipt of the request for hearing. The hearing officer shall have authority to administer oaths and to issue orders compelling the attendance of witnesses and the production of documents, such orders to be enforced by a municipal court.
- (d) The hearing shall be conducted to determine whether there is a sufficient factual and legal basis to impose the costs of the police, peace, or abatement officer response and the reasonableness of the amount. All parties to the hearing shall have the right to present evidence. The record of witness testimony may be preserved for appellate review by the use of an audio tape recording or a videotape recording.
- (e) The hearing officer shall issue a written order stating whether or not the person is liable for the costs, and the amount of the reasonable costs. The order shall be filed with the municipal court director.
- (f) Costs imposed under this section are due and payable upon the expiration of the period to request a hearing or upon notice of the hearing officer's decision if a hearing is requested. Costs shall accrue interest at a rate of ten (10) percent per annum, or as allowed by law, from the date of assessment until paid in full.
- (g) A person found liable for the costs of a second or subsequent response may appeal the decision to the municipal court by filing an appeal petition with the municipal court clerk not later than thirty (30) days after the order is filed. The appeal hearing shall be scheduled to occur within thirty (30) days of the filing of the

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appeal petition. The appeal hearing before a municipal court judge shall be an administrative proceeding for the purpose of affirming or reversing the order issued by the hearing officer based upon the evidence presented at the hearing. The decision of the municipal court judge shall be final and shall not be appealable.

- (h) Neither a notice of intent to appeal nor the filing of an appeal petition shall stay the enforcement and collection of the hearing officer's decision unless the service of the notice of appeal is preceded by the posting of a bond with the municipal court clerk in an amount set by a municipal court judge.

(Ord. No. 2007-04-05-0371, § 2, 4-5-07)

**Secs. 21-85—21-90. Reserved.**

DRAFT